Automated Commercial Environment - Requirements Recommendation

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Number:	ITD-HL-006
Requestor:	Trade Support Network ITDS Subcommittee
Customs Co-Chair:	Allison Suliveras
Trade Co-Chair:	Tom Anastasi & Sandra Scott

Requirement / Business Need

Data Collection Model / Data Harmonization

In the past there have been fundamental differences between ITDS and Customs proposals for future approaches to collection of international trade data. In order to provide clear guidance to the Customs Modernization contractor and to the trade community, it is essential to resolve these past conflicts and to establish a plan to address any remaining questions.

The attached paper addresses these issues and makes the following six recommendations:

1. ITDS should adopt the Customs data collection model for Tracks 2, 3 and 4 as the framework for specification of other agencies' ITDS data requirements.
2. ITDS and Customs should encourage agencies to be flexible in their approaches to data collection.
3. Any conflicts among the ITDS, G7 and NCAP Prototype data standards must be evaluated and resolved.
4. Continue to work toward international harmonization.
5. In order to allow adequate time for trade transition planning, the precise requirements for Customs import declaration messages must be specified as soon as possible.
6. Agencies' requirements should be incorporated gradually, based on the ACE implementation plan.

Additional details are provided in the attached paper.

Priority: **Critical** X **High** ☐ **Medium** ☐ **Low** ☐

Customs Use Only

Approved ☐ Not Approved ☐ Further Evaluation Required ☐

Trade Support Network – ITDS Subcommittee
Import Declaration Recommendations

The Trade Support Network (TSN) International Trade Data System (ITDS) Subcommittee endorses without reservation the goals1 of ITDS:

- Reduce the cost and burden of processing international trade transactions for both the private trade community and the government;
- Provide the trade with a standard data set and a single system for import, export, and transit procedures relative to the goods involved and the transportation employed (conveyances and crew);
- Improve compliance with government trade requirements (e.g., public health and safety rules, export controls, etc.); and
- Provide users with access to more accurate, thorough, and timely international trade data.

There is no question that a single, coordinated, government-wide data collection system that eliminates duplicative reporting requirements will be of benefit to the trade community, the government and the general public interest. We believe, however, that some simple measures must be taken to coordinate definition of ITDS requirements with development of the Customs Automated Commercial Environment (ACE), while facilitating the transition from current trade reporting systems.

Background

Both Customs and ITDS have already modified their original approaches to collection of import declaration data. The current entry / entry summary process permits a filer to submit a partial import declaration (the "entry") to secure release of cargo from customs, then to submit the complete import declaration (the "entry summary") up to two weeks later. A filer may optionally file an entry summary to secure release of cargo from customs, thus eliminating the need for a second submission. This option has been increasingly popular in recent years as many filers have found it more efficient to complete an import declaration in a single step. Observation of this filing trend, combined with the potential for similar improvements in the efficiency of government data collection procedures, led both Customs and ITDS to propose elimination of the entry / entry summary process. But as filers made the case that there are circumstances under which the entry / entry summary process is essential to maintaining efficient border operations, first Customs, then ITDS, conceded the necessity of retaining the entry / entry summary process.

The role of commercial data in the import declaration has been the central area of continuing divergence between Customs and ITDS proposals. This divergence has been recognized at least since 1993, when the "Report Of The Future Automated Commercial Environment Team" (FACET) acknowledged that the Customs Modernization Act2 (Mod Act) provision regarding partial invoices was "in direct conflict with FACET's central concept that the commercial line item data are the foundation for all import and export transactions…."3 While the FACET report laid the foundation for both ACE and ITDS, this fundamental conflict has never been satisfactorily resolved.

ITDS adopted the FACET approach of treating the commercial line item as the basic unit of work for all goods transactions. As a result, ITDS data collection models have always incorporated commercial data elements (e.g., Line Item Commodity Description, Line Item Quantity, Line Item Unit Price) into the basic entry and entry summary data sets. Customs, as well as other government agencies, use this commercial data as the primary source business information for identification and classification of goods that cross U.S. borders. Commercial data provides critical information about the nature of the goods and details about the consignment, purchase, sale or

1 This statement of ITDS goals is taken from the Federal Register notice "Announcement of a National Customs Automation Program Test: The International Trade Data System (ITDS)," published on June 2, 2001.
2 Title VI "Customs Modernization" of the NAFTA Implementation Act (public law 103-182).
3 Report Of The Future Automated Commercial Environment Team; December 30, 1993; Section 2.3.3.6.

transfer of merchandise. The Line Item Commodity Description, for example, was identified as a required data element by thirty-nine agencies as development of the ITDS data set proceeded.

Customs, on the other hand, adopted the approach implied in the Mod Act. The Mod Act fundamentally altered the relationship between importers and Customs. The Mod Act shifted the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise to the importer and requires importers to exercise reasonable care to assure Customs is provided accurate and timely data. This shift was a legal recognition of a longstanding operational reality: with the growth in international trade, Customs no longer has the resources to review each individual entry. Since the passage of the Mod Act, Customs' consistent policy has been to neither require nor accept detailed commercial data unless required by another government agency or provided in response to a specific Customs request in support of a cargo examination, data review or other compliance verification activity. For a significant percentage of imports today, Customs never collects this information.

For their part, entry filers want to minimize the need to re-key commercial data from paper invoices. While the ITDS concept assumed wide availability of electronic commercial data, most customs brokers rarely have access to electronic commercial data. Some customs brokers have been working with their customers for years to get electronic feeds of commercial data – as much to drive their own business processes as to provide data for government reporting – but in many cases they are still working from paper commercial documents. Entry filers will strongly resist a requirement for routine reporting of detailed commercial data, especially if the data is required prior to cargo release.

Customs Data Collection Model (Tracks 2 & 3)

As a result of its own policy direction and the concerns of entry filers, Customs has implemented the entry / entry summary (Track 2) process in four steps:

1. Entry data is always required and is used for automated admissibility risk assessment.

2. Cargo examination data is required and accepted only for the small minority of entries selected for cargo examination.

3. Entry summary data is always required and is used for detailed statistical and revenue reporting.

4. Compliance review data is required and accepted only following a specific Customs request in support of a data review or other compliance verification activity. Again, this data is required for only a minority of entries.

Customs has implemented the so-called "single-step" import declaration (Track 3) in two steps:

1. Entry summary data is always required and is used for automated admissibility risk assessment and for detailed statistical and revenue reporting.

2. Compliance review data is required and accepted only following a specific Customs request in support of a cargo examination, data review or other compliance verification activity.

In both Track 2 and Track 3, detailed commercial data is collected for Customs purposes in cargo examination data or in compliance review data, if it is collected at all. This does not, however, preclude the possibility that detailed commercial data will be collected in entry or entry summary data when that is required by another agency. Commercial descriptions, for example, are currently collected in Track 2 entry data and in Track 3 entry summary data for goods subject to regulation by the Food & Drug Administration.

Customs Data Collection Model (Track 4)

Collection of data outside traditional transactional cargo processing systems needs to be considered where other, more efficient means are appropriate. Just as the effectiveness of past government automation efforts has been

limited by adherence to existing forms and procedures, there is a danger that the benefits of the ITDS effort will be limited by adherence to an exclusively transactional trade data reporting model.

The Track 4 account-based declaration process is available to importers that meet certain requirements and provide Customs with a pre-filed profile of their importing activity. Track 4 includes a fully electronic entry process that bases cargo examination decisions primarily on that pre-filed importer account profile. As a result, Customs requires only minimal data for the release of most Track 4 shipments.

Currently, Track 4 has been implemented only in the NCAP Prototype, which is limited to truck freight. As Track 4 is implemented in the NCAP Prototype, no data about a specific shipment is typically required from the importer or entry filer before the shipment is released. Participating carriers are, however, required to provide additional data beyond the usual requirements of Customs manifest reporting.

Customs plans to extend the Track 4 process to all modes of transportation in the first increment of ACE development.

Data Harmonization

The benefits of ITDS are partially contingent upon successful harmonization of data standards among the various participating government agencies. Meaningful harmonization requires agreement on a coherent data set, with the various participating government agencies agreeing to use the same data. This requires agreement not only on the selected data elements and definitions, but also on coding standards and the relationships between the various elements.

In situations where complete interagency harmonization is not accomplished, pre-registration can provide some reduction in filers' reporting burden. In the ITDS Pilot, for example, Customs, INS and DOT all have different requirements for identification of truck drivers. By collecting all of the needed identifiers for a driver once, then simply referring to the established driver record as transactional data is filed, the need to repeatedly provide multiple driver identifiers is avoided.

The ITDS project has worked extensively with participating agencies to develop a comprehensive interagency data set. Through the North American Trade Automation Prototype (NATAP), the ITDS project has also worked toward harmonization of data requirements with Canadian and Mexican Customs. Meanwhile, however, the G7 countries have developed a harmonized customs data set intended for acceptance by all G7 customs administrations. Customs has also developed a new data set to support the NCAP Prototype.

Recommendations

1. **ITDS should adopt the Customs data collection model for Tracks 2, 3 and 4 as the framework for specification of other agencies' ITDS data requirements.**

   The proposed ITDS entry / entry summary and single-step processes incorporate the collection of Customs Track 2 cargo exam data with the collection of entry data, and incorporate the collection of Customs Track 2 and Track 3 compliance review data with the collection of entry summary data. As such, the ITDS entry / entry summary and single-step processes are special cases of the more general Customs Track 2 and Track 3 processes. The proposed ITDS processes implicitly presuppose that under all circumstances some agency will require each cargo exam data element at time of entry filing, and that some agency will require each compliance review data element at time of entry summary filing. We do not believe that this has been demonstrated.

   Line Item Commodity Descriptions, for example, are said to be required by 39 agencies, but it is not clear which agencies require this detail under what circumstances and at what point in the import declaration process. Nor is it clear how this data is currently collected. It is, however, clear that for a large number of current entries, this data element is not collected by Customs.

   While adoption of the Customs Track 2 and Track 3 data collection models does nothing to preclude incorporation of any data element required by an agency at any point in the process, it preserves the potential for reduced commercial data reporting burden.

Integration of agency requirements for Track 4 will likely focus more on establishment of importer and commodity eligibility and the approval process than on specification of data requirements. There are precedents for this in FDA's participation in BRASS import approvals and in the interagency approval process for the Automated Export System (AES) Option 4 process.

2. **ITDS and Customs should encourage agencies to be flexible in their approaches to data collection.**

   As a general principle, an agency should not require data unless it will actually be used by the agency, and should not require data before it will be used by the agency.

   In particular, information currently collected outside transactional reporting processes should not necessarily be required in future transactional reporting. In determining reporting requirements for all entry Tracks, and in determining eligibility of cargo for Track 4, due consideration should be given to both formal and *ad hoc* procedures currently in place. In many cases – often by informal local agreement – agencies have permitted particular filers or trade sectors to satisfy reporting requirements through non-standard periodic reporting. Rather than viewing such arrangements as liabilities, they should be seen as potential models for future reporting options.

3. **Any conflicts among the ITDS, G7 and NCAP Prototype data standards must be evaluated and resolved.**

   Customs should produce a working ITDS data standard for implementation in ACE. The data standard must satisfy all Customs requirements and adhere, to the extent possible, to the G7 standard. Any changes to the existing ITDS, G7 and NCAP Prototype standards will be negotiated with the appropriate stakeholders, but establishment of the working ITDS data standard for ACE implementation cannot be delayed, even if complete consensus cannot be achieved.

4. **Continue to work toward international harmonization.**

   ITDS and Customs should continue to work toward both bilateral and multilateral international standardization of import, export and transit procedures and data requirements. Ideally, procedures should be "seamless" in the sense that identical electronic transaction data would satisfy government requirements for a shipment at both origin and destination. Direct intergovernmental exchange of transactional or aggregated data should be considered where such exchanges would reduce the cost of trade reporting.

   Particular attention should be given to the current G7/WCO data harmonization initiative and to potential alignment of land border cargo clearance procedures with those of Canada and/or Mexico. ITDS and Customs should consider adopting the approach used in the Canadian Customs Self-Assessment (CSA) Enhanced Option.

5. **In order to allow adequate time for trade transition planning, the precise requirements for Customs import declaration messages must be specified as soon as possible.**

   By applying the working ITDS data standard (item 3, above) to the Customs data collection model (item 1, above), detailed import declaration message specifications may be developed and published, providing filers with as much time as possible to plan for transition from current to future reporting requirements.

6. **Agencies' requirements should be incorporated gradually, based on the ACE implementation plan.**

   Development of the ITDS Pilot has demonstrated that as agency processes are integrated many operational and data requirement issues must be resolved among the participating agencies and the affected elements of the trade community. As a practical matter, agency requirements will need to be integrated into ITDS gradually.

   New agencies should be brought into ITDS on a schedule that supports the overall ACE implementation plan. Factors that should be considered in scheduling implementation of agency requirements include:

   - Dependence of current agency processes on Customs systems
   - Readiness of agency systems to support interface requirements (if any)
   - Agency impact (based on ACE coverage of commodities, locations, modes of transportation, etc.)